

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ERNESTINE COMBS,
on behalf of herself and
all others similarly situated,

Plaintiff,

v.

CAPITAL ONE BANK

Defendant.

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Case No. 3:16-cv-00827-REP

DEFENDANT’S MOTION FOR SUMMARY JUDGMENT

Defendant Capital One Services, LLC (“Capital One”), incorrectly identified in the Complaint as Capital One Bank, by counsel and pursuant to Federal Rule of Civil Procedure 56 and Local Civil Rule 56, moves for summary judgment in favor of Capital One as to each of the remaining claims in Plaintiff’s Complaint for the reasons set forth in the accompanying Memorandum of Law.

Specifically, Capital One respectfully requests that the Court grant summary judgment in favor of Capital One on Count Three, violation of 15 U.S.C. § 1681b(b)(3)(A)(i), and Count Four, violation of 15 U.S.C. § 1681b(b)(3)(A)(ii), because the FBI background report that served to disqualify Plaintiff from employment with Capital One is not a “consumer report” as defined in the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*

Dated: May 1, 2017

Respectfully submitted,

CAPITAL ONE SERVICES, LLC

By Counsel:

/s/ Bryan A. Fratkin

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CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2017, a copy of the foregoing was filed via CM/ECF, which will send a notification of such filing to all counsel of record.

/s/ Bryan A. Fratkin
Bryan A. Fratkin